

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



REC'D 18 NOV 2004

WIPO PCT

Applicant's or agent's file reference PPD 70125/WO	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/04631	International filing date (day/month/year) 27.10.2003	Priority date (day/month/year) 26.11.2002
International Patent Classification (IPC) or both national classification and IPC A01N43/42		
Applicant SYNGENTA LIMITED et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
  
 These annexes consist of a total of    sheets.

3. This report contains indications relating to the following items:
  - I    ☒ Basis of the opinion
  - II   ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV   ☐ Lack of unity of invention
  - V    ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI   ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  25.05.2004	Date of completion of this report  17.11.2004
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Fanni, S  Telephone No. +49 89 2399-8712  

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/GB 03/04631**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-64 as originally filed

**Claims, Numbers**

1-13 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1,12
	No: Claims	
Inventive step (IS)	Yes: Claims	1,12
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1,12
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

## ITEM V

Reference is made to the following documents:

D1: JP(A) 2001089453 & PAJ abstract

D2: WO-A-9933810

D3: EP-A-0940392

### Article 33(2) PCT

The present subject matter overlaps with D1, of which it is considered to be a novel selection on account of the fact that the present oxyalkylamide residue is always on position 6 of the quin(az)oline moiety and on position 7 of the isoquinoline moiety of present compound of formula 1, and that the said residue is always N-alkynyl substituted.

The present subject matter differs from D2 on account of the present (iso)quin(az)oline moiety.

The present subject matter differs from D3 mainly on account of the present N-alkynyl residue.

### Article 33(3) PCT

The present subject matter is directed to N-alkynyl-[(iso)quin(az)oline]oxyalkylamide and to their use as fungicides.

D1 is considered to be the closest prior art and discloses N-alkynyl[heteroaryl]-oxyalkylamide and their use as fungicides. Claim 1 of D1 encompasses the present compounds, although none of the examples specifically disclosed in D1 fall within the scope of present claim 1. Thus, for the reason given above, the present subject matter is considered to be a novel selection of D1.

Thus, the problem to be solved by the present subject matter is considered to be the provision of further fungicidal N-alkynyl[heteroaryl]-oxyalkylamide which have unexpected properties when compared to the structurally closest prior art compounds.

It appears therefore that an inventive step vis-à-vis D1 can be established for the

present subject matter only in a comparative matter, i.e. showing that the present compounds exhibit unexpected properties when compared to the closest prior art compound from the prior art.

The Applicant has provided comparative data which shown that present compounds have a superior systemic activity when compared to the structurally closest compounds from D1. This is a surprising result as D1 does not appear to suggest that the present selection would have led to compounds having such superior activity. Thus an inventive step can be acknowledged for the present subject matter.